Applicant : Marcio Cravo de Almeida et al.   Attorney's Docket No.: 12971-002001
Serial No. : 09/853,839
Filed   : May 11, 2001
Page   : 7 of 9

REMARKS

The comments of the applicant below are each preceded by related comments of the examiner (in small, bold type).

3. Claims 19-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of US Patent Pub. US 2001/0027470 A1 to Ulmer and US Patent Pub. US 2002/0173997 A1 to Menard.

4. Regarding Claims 19 & 32, Ulmer discloses a method and computer readable medium comprising:
automatically and repeatedly receiving electronic mail messages that include information related to remotely collected data indicative of a performance of a machine, the electronic mail messages complying with a standard electronic mail messaging protocol, (paragraphs #0036-0038, 0040, 0056, 0059, 0063-0073 & 0097), and automatically analyzing the information to determine the performance of the machine, (paragraph #0036).

5. Though Ulmer clearly discloses the remote collection and analysis of data related to the performance of a machine, Ulmer does not specifically teach the collection and analysis of data by a remote computer, which data is indicative of the performance of the particular remote machine collecting the data. Menard clearly teaches a collection/analysis system, embedded upon the client, which system collects and transmits client-based data to a remotely located management server for analysis of the same, (Menard - paragraphs #0010-0017).

6. It would have been obvious to one of ordinary skill in the art at the time of invention by Applicant to incorporate the collection & threshold analysis system from Menard into the remote support service system of Ulmer as a new means by which to improve business performance and increase reliability within a geographically distributed system, (Menard - paragraph #0002-0009). Specifically, Examiner notes that both systems gather, transmit, analyze and report remote system performance information wherein various analysis techniques would have been obvious to incorporate therein or combine therewith. Therefore, Claims 19 & 32 are found to be unpatentable over the combined teachings of Ulmer and Menard.

Claim 19 has been amended to recite "automatically and repeatedly receiving data at time intervals independent of the data collection times" and "the data having been written to a file on a remote computer." In some examples in the specification, data is received when "the value of

the *upload timer* is greater than or equal to the upload period ..." (p. 10, lines 26-27, emphasis added), and therefore "at time intervals independent of the data collection times."

In Menard, "mew [*sic*] datapoint values are sent to the system manager by the collector only when there if [*sic*] a change in value. If no change in datapoint value has occurred, no data is sent, reducing the volume of network traffic ... Collected data is transmitted via an aggregator to the system manager, which stores it in a repository for determination of whether analysis is required." (¶ 0047) Menard does not write data "to a file on a remote computer," because new datapoint values are sent to the system manager. Additionally, data is received when datapoint values change, not "at time intervals independent of data collection times."

In Ulmer, "if the task is ready for collection ... it passes the collection task in step S6 to the strategy layer 32 ... The strategy coordinates the access to the infrastructure elements and initiates the actual collection [and] ... the protocol layer ... retrieves the data about the infrastructure and returns the result in step S8 to the IDT controller." (¶ 0084) Ulmer does not write data "to a file on a remote computer," because the "protocol layer" retrieves the data after each collection. Ulmer does not disclose receiving data "at time intervals independent of data collection times," because the IDT controller receives "the result" after collection.

Ulmer and Menard would not have made obvious "automatically and repeatedly receiving data at time intervals independent of data collection times" and "the data having been written to a file on a remote computer."

Claim 32 has been similarly amended. Claim 32 is patentable for at least the same reasons as claim 19.

7. Regarding Claims 20 & 33, ...

8. Regarding Claims 21, 26, 28-31, 34, 39 & 41-44, ...

9. Regarding Claims 22 & 35, ...

10. Regarding Claims 23-25, 27, 36-38 & 40, ...

All of the dependent claims are patentable for at least the reasons for which the claims on which they depend are patentable.

Canceled claims, if any, have been canceled without prejudice or disclaimer.
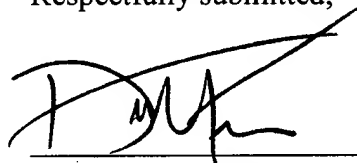
Any circumstance in which the applicant has (a) addressed certain comments of the examiner does not mean that the applicant concedes other comments of the examiner, (b) made arguments for the patentability of some claims does not mean that there are not other good reasons for patentability of those claims and other claims, or (c) amended or canceled a claim does not mean that the applicant concedes any of the examiner's positions with respect to that claim or other claims.

Enclosed is a $225 check for the Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date:_____7/13/6_____

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